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February 19, 2008

Honorable Faith S. Hochberg  
United States District Judge for the District of New Jersey  
Martin Luther King, Jr. Federal Building and U.S. Courthouse  
50 Walnut Street  
Newark, NJ 07101

Re: United States v. Frederick S. Schiff  
Crim. No. 06-406-FSH

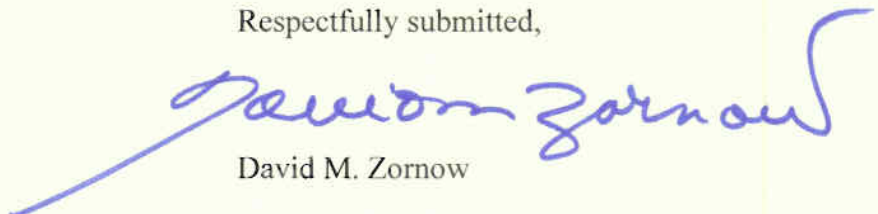
Dear Judge Hochberg:

We write on behalf of our client Frederick S. Schiff in opposition to the government's request, in contravention of the Court's February 15, 2008 Order, to withhold from Mr. Schiff the identity of the witnesses from whom the government intends to elicit co-conspirator statements pursuant to Fed. R. Evid. 801(d)(2)(E).

To satisfy Rule 801(d)(2)(E), the government must establish by a preponderance of the evidence: (1) the existence of a conspiracy; (2) the declarant and the party against whom the statement is offered were members of the conspiracy; (3) the statement was made during the course of the conspiracy; and (4) the statement was made in furtherance of the conspiracy. Fed. R. Evid. 801(d)(2)(E); United States v. McGlory, 968 F.2d 309, 333 (3d Cir. 1992) (citing Bourjaily v. United States, 483 U.S. 171, 175 (1987)). It is obviously essential in evaluating whether the statement in question was made during the course of the conspiracy or in furtherance thereof to understand the identity of all parties to the conversation.

The government's claim that revelation of the identities of these witnesses "so far before trial" will prejudice the government is without merit. The government sets forth no prejudice, nor could it do so, with trial scheduled to commence in less than a month.

Respectfully submitted,



David M. Zornow

cc: Paul Matey, Esq.